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From: Han, Linda (DPH)
Sent: Tuesday, November 30, 2010 8:54 AM
To: Holland, James (DPH)
Subject: FW: Employee Complaints
Attachments: Right to Union Representation.doc

Importance: High

fyi

From: Clemmer, Jill (DPH) [mailto:Jill.Clemmer@state.ma.us]

Sent: Monday, November 29, 2010 7:16 PM

To: Kludt, Patricia (DPH); Talebian, Pejman (DPH); Gauthier, Cheryl (DPH); 'Nawn, Kathleen (DPH)'; Konomi, Raimond (DPH); Knorr, Robert (DPH); Feeney, Mike (DPH); Sullivan, Jan (DPH); Clarke, Roberta (DPH); McDonald, Timothy (DPH); Levy, Carly (DPH); Tallon, Lindsay (DPH); Servizio, Paul (DPH); Greer, Garry (DPH); Hanchett, James (DPH); Borne, Alan (DPH); Hennigan, Scott (DPH); Elvin, Paul (DPH); Belanger, Peter (DPH); Stiles, Tracy (DPH); 'DiNatale, Margaret (DPH)'; Stinson, Cynthia (DPH); Cocoros, Noelle (DPH); Grass, Stanley (DPH); Halfmann, Paul (DPH); Blanchet, Meg (DPH); Cui, Xiaohui (DPH); Rubin, Alan (DPH); Chen, Karen (DPH); Behnke, John (DPH); O'Brien, Elisabeth (DPH); Kazianis, Arthur (DPH); Crisafulli, Karen (DPH); Jenner, Jennifer (DPH); Swanson, Tanya (DPH); Bird, Ciranna (DPH); Guillet, Jasmine (DPH); Krumholz, Glenn (DPH); Wang, Xingtai (DPH); Gottshall, Christine (DPH); Piro, Peter (DPH)

Cc: 'Han, Linda (DPH)'; Smole, Sandra (DPH); Nassif, Julianne (DPH); Caloggero, Dina (DPH); 'Lawler, Michael (DPH)'; 'Salemi, Charles (DPH)'; Corkren, Edward (DPH); Cunningham, Marie (DPH); Molina, Ellen (DPH); 'Ann Looney'; Sullivan, Julie (DPH); 'dennis.johnson@state.ma.us'

Subject: FW: Employee Complaints

Importance: High

Hi All:

Due to recent inquiries made to me regarding Employee Complaints, Ann Looney, General Counsel for MOSES, has provided the information below to assist those contemplating filing complaints and those notified of a complaint filed against them in understanding the process of this 'vehicle'. Please forward this information to all of your MOSES staff. It is certainly in our best interest to resolve conflicts in any way possible and maintain a healthy/positive work climate; although I believe that an attempt to resolve conflicts internally with impartial assistance and communication is a good first step prior to using the formal complaint route.

Thank you Ann for providing this excellent summary of the Employee Complaint process.

Jill

From: Ann Looney [mailto:alooney@moses-ma.org]

Sent: Monday, November 29, 2010 5:10 PM

To: 'Clemmer, Jill (DPH)'

Cc: mgates@moses-ma.org; 'Eric Klein'; mcdonaghq@comcast.net; 'Paul Donohue (Paul Donohue)'; jbremer@moses-ma.org

Subject: Employee Complaints

Importance: High

Jill,

Due to the volume and complexity of the information we discussed earlier today I thought it might be helpful if I put together a summary:

- When an employee files a complaint with management against a fellow employee, management "best practices" require that the complaint be investigated.
- Unless discipline of **either*** employee results, no material regarding the results, nor material regarding the complaint should be placed in either employees' personnel file.

* I mention discipline of either employee because making false statements, i.e., filing a false complaint, could lead to discipline up to and including termination. Additionally, an employee making false complaints could be sued civilly for libel, slander and/or defamation.

- Under our contract and now according to the law, management is supposed to notify employees when placing in their personnel file, "any information to the extent that the information is, has been used or may be used, to negatively affect the employee's qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action." (Acts and Resolves of 2010, chapter 240 §148, amending M.G.L.c149 §52C.) Employees that receive such notification have a right to review their personnel file within five (5) days of providing written notice to their employer. (This right of review is separate from the §52C right to review twice a year and the contract's requirement for review).
- Under the contract, depending on what negative material is placed in an employee's personnel file, that employee will have either the right to respond, file a grievance and in some instances, both. Employees should consult with a MOSES attorney prior to responding to the negative material.
- Should an employee be subjected to an investigatory interview they should be aware of and if necessary invoke their Weingarten rights. (See attached).
- Where an investigation has occurred and concluded and an employee has not been advised of a result or has been advised that the complaint was not supported by evidence but the employee has no assurances that all appropriate parties have been advised that the employee has not engaged in any wrongdoing the employee and/or Board member and/or Steward may contact MOSES Legal for assistance.

I hope this is helpful. Let me know if I can be of further assistance.

Ann M. Looney
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The most valuable of all talents is that of never using two words when one will do. — Thomas Jefferson